

ORIGINAL

DOCKET FILE COPY ORIGINAL

RECEIVED

MAY 22 1998

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

**BEFORE THE**

**UNITED STATES OF AMERICA  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

Now comes **JOSEPH J. GENTILE**, of **JOSEPH J. GENTILE INCORPORATED**, licensee of **WJG AM1530, ELMHURST, ILLINOIS**, an AM daytime facility, presenting the following.

**PETITION FOR RULEMAKING**

**WHEREAS**, Standard Broadcast (AM) stations operating with only daytime authority are placed under severe and undue competitive restraints as compared to full-time licensees and,

**WHEREAS**, a high percentage of AM daytime licensees cause or receive interference in excess of the commission's current standards and,

**WHEREAS**, licensees of standalone AM facilities (AM broadcast facilities who do not hold a companion license for an FM facility in the same market) are at a competitive disadvantage compared to FM broadcast licensees,

**THEREFORE**, the following PETITION FOR RULEMAKING is submitted proposing modification of Part 73 of the commission's rules and regulations:

©LenWatson

No. of Copies rec'd  
List A B C D E

014  
MMB

I. All standalone AM daytime-only licensees shall be permitted to file for operation of a full time FM facility, the city(ies) of license of which shall be identical to that of the existing AM facility, *provided that:*

- A. the effective radiated power and FM antenna height above average terrain of the proposed FM operation shall be regulated such that the 3.16 mv/m coverage area shall be equal to or less than the 5 mv/m contour of the current AM operation. In cases where the AM facility operates utilizing a directional antenna, the area encompassed by the proposed FM's 3.16 mv/m contour shall not exceed the equivalent area of the 5 mv/m contour as exhibited in the standard pattern of such directional AM facility.
- B. should no FM channel be available - in accordance with current commercial FM broadcast mileage separation regulations - which would permit operation at such equivalent power levels, applicants may, with proper showing, apply for and be granted a lesser effective radiated power level and/or lower height above average terrain.
  - 1. such proper showing shall be demonstrated by the applicant through the submission

of appropriate data which shall support the ability of the proposed FM facility to operate consistent with and compliant with section 73.509 (Prohibited overlap) and section 73.507(c)(1) (Minimum distance separations between stations) of the commission's rules and regulations governing noncommercial educational FM broadcast stations.

D. The minimum operating power for such applications shall be 100 watts effective radiated power.

E. Applications shall specify a nondirectional FM antenna system.

II. Applicants granted licenses under the above proposed rules, where the AM facility neither causes nor receives interference under the current rules, including application of the so-called "ratchet clause" may continue operate both facilities on a permanent basis, *provided that*, upon issuance of a license for FM operation, licensee's AM and FM operations shall be considered one facility; neither shall be sold or otherwise transferred in whole or in part separately from the other.

III. Applicants granted licenses under the above proposed rules whose AM facilities currently cause or receive interference in excess of the maximum specified in the

© 1997  
L. N. WATSON

current rules, including application of the so-called "ratchet clause" shall have three years from the date of grant of such FM license either to:

- A. reduce the power of the AM facility to that level necessary to eliminate interference to/from other AM licensees or,
- B. surrender the AM license to the commission for cancellation.

IV. In instances where applicant proposes mounting of FM antenna system in such a manner as to not require air navigation hazard study, e.g., side mounting on an existing tower or at heights exempt from air hazard obstruction marking and/or lighting, such applicant shall, under the above proposed rules, upon acceptance for filing by the commission of said application, be permitted to begin immediate construction and operation of such facility at the applied for height above average terrain and at a power level of one-quarter of the applied-for effective radiated power (one-half the field intensity) pending final approval of the complete application by the commission, *provided that*, such application shall be certified by two independent engineers, both of whom shall attest to the accuracy of the data submitted and *further provided that*, such data shall include projected changes necessary

to the AM radiation system should the application propose mounting of the FM antenna in such a manner as to alter the radiation characteristics of any element of the AM radiation system and, *further provided that*, a statement by applicant's engineering counsel addressing the methods by which applicant will insure that the AM transmission system will be maintained within prescribed limits during construction of the FM facility. For nondirectional radiators, a statement that the AM facility will operate using a direct measuring radio frequency power meter [section 73.51(a)] or will operate using the indirect method [section 73.51(d),(e),(f)] shall be sufficient. For directional radiation systems, such statement shall include methods proposed to insure operation within licensed power and pattern parameters, and *further provided that*, should the commission's final review of such application determine that submitted engineering data are in error with respect to harmful interference and that operating at initial one-quarter power as outlined above, such station has been in violation of the commission's interference standards (either AM or FM), such applicant shall be considered to have caused willful, harmful interference subject to the commission's rules and policies.

- V. One year following promulgation of the rules proposed in this **PETITION**, section I, above, shall be

modified to read ". . . all standalone AM daytime-only or fulltime licensees . . ."

VI. **FILING FEE:** A filing fee of one hundred dollars (\$100) shall accompany each application and shall be the only fee required in association with such filing and subsequent grant, *except that*, should the commission staff find the application defective in any manner, it may assess additional processing fees up to \$500 in aggregate. Commission expenses which would result in fees in excess of \$500 shall result in the application being dismissed.

VII. This **PETITION** further requests expeditious attention and processing within the proposed rule-making proceeding.

- A. This **PROPOSED RULEMAKING** will augment the commission's and the industry's efforts to reduce interference in the AM broadcast band.
- B. This **PROPOSED RULEMAKING** will provide support for numerous AM daytime station operations whose immediate survival is in danger:
- i. It will permit operation during nighttime hours.
  - ii. It will provide a nominal voice on the FM band leading to a more equal footing among

prospective listeners.

C. This PROPOSED RULEMAKING will  
not, in any way increase interference to or  
from any existing station.

D. Self-certification strengthened by harmful  
interference rules (IV, above) will abate the  
commission's workload.

- I. ownership shall be common to the AM and  
already on file with the commission
- II. only engineering data need be considered.

For reasons cited above and given the gravity of the economic  
environment facing standalone daytime AM broadcast facilities,  
**JOSEPH J. GENTILE, JOSEPH J. GENTILE INCORPORATED,**  
licensee of **WJJG AM1530, ELMHURST, ILLINOIS,** a standalone  
daytime AM facility, enter this PETITION before the commission.

Should the commission find for this PETITION, **JOSEPH J. GENTILE  
INCORPORATED** will proceed with all due speed to file for, construct,  
and operate a companion FM facility at **ELMHURST, ILLINOIS.**

Respectfully submitted,



**Joseph J. Gentile**  
**President**  
**Joseph J. Gentile Incorporated**  
**WJJG-AM1530**

2-4-98  
Date